

London Olympic Games and Paralympic Games Act: Regulatory Impact Assessment

- 1.1 This Regulatory Impact Assessment (RIA) assesses the costs and benefits of the London Olympic Games and Paralympic Games Act, which received Royal Assent on 30 March 2006. On 6 July 2005 the International Olympic Committee (IOC) announced that London had been selected to host the Olympic and Paralympic Games in 2012. Legislation is required in order to ensure we can deliver on commitments made during the bidding process and to secure the successful delivery of the Games.
- 1.2 The Act has three main measures:
 - 1.2.1 Set up the Olympic Delivery Authority (ODA) to deliver public sector obligations for the Olympic project, including delivering the necessary venues and infrastructure. From the beginning, the ODA is clearly accountable for the public money spent on getting venues and infrastructure ready on time and on budget. It will also make sure that public transport systems are fully co-ordinated;
 - 1.2.2 Grant the Mayor of London (who has signed the Host City Contract) Olympic-specific powers that will enable the Greater London Authority (GLA) to fulfil all its obligations to help prepare for and stage the Games;
 - 1.2.3 Ensure that we can meet the commitments given in London's bid about how the Games, and the Olympic environment, will be managed. In line with IOC requirements, the Act regulates commercial exploitation of the Games. Olympic symbols and intellectual property are given additional legal protection. Controls will be placed on advertising and street trading around venues and ticket touting in connection with Olympic events are made a criminal offence.
- 1.3 Given that these measures form discrete sections of the Act, this RIA is split into three sections on the lines outlined above:
 - a) Setting up the ODA;
 - b) The Mayor's and Regional Development Agencies' (RDA) Olympic powers; and
 - c) Marketing measures.
- 1.4 Any assessment of the London Olympic Games and Paralympic Games Act must sit alongside the assessment of the wider impact of a UK Games. We have commissioned an Olympic Games Impact Study to assess the likely impacts of hosting the Olympic Games on both London and the UK. This study will provide robust and accurate assessments of the net impacts of the Games, which will in turn be used to inform the strategies for achieving the benefits. We intend to publish a final version once the study is completed.
- 1.5 The contact point for queries or comments about this RIA is:

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a) Setting up the ODA

2.1 This section addresses measures in the Olympic Games and Paralympic Games Act to:

- Create the ODA; and
- Grant it the necessary powers, primarily relating to planning, land acquisition and transport.

Purpose and intended effect

2.2 The Olympic Bid was made by the Mayor of London, with the support of the British Olympic Association and the Government. As part of the bid, the Government made a number of guarantees to the IOC, including some around the delivery of the necessary venues and infrastructure to support them. In order to deliver the 2012 Games, there will therefore be a need for the Government to work closely with the Mayor, the London Development Agency (LDA) and Transport for London (TfL), to deliver a large scale programme of infrastructure development to clean up the Lower Lea Valley and provide temporary and permanent venues for the Olympic Games in the Lower Lea Valley and beyond, as well as to provide logistical support to the body which will be staging the Games (the London Organising Committee for the Olympic Games (LOCOG)).

2.3 The measures to create the ODA and give it the necessary powers are intended to ensure the delivery of the 2012 Olympic and Paralympic Games by creating a single, Olympic-focussed body to manage public sector involvement in the Games. The intention is that this body would be better placed to deliver public sector obligations on time and within the public sector funding package than existing bodies, whose focus extends wider than the Olympics.

2.4 The main effect of the establishment of the ODA will be to deliver this infrastructure, but the Government and the Mayor are looking to realise wider benefits to London and the whole of the UK, and we will task the ODA to deliver a sustainable legacy from the Games. The aim with regard to the ODA's transport function is to ensure the swift, safe and smooth transportation of the Olympic Family and other Olympic travellers between key locations. To do this, it is deemed necessary to coordinate closely the construction of planned and Olympic-specific transport projects and develop in advance of the Games a detailed operational plan which has the full support of all key transport organisations

Background

2.5 The IOC requires that the host city forms an Organising Committee of the Olympic Games to stage the Games, but this body is not allowed to provide the capital investment required. The Government has therefore judged it necessary to create a single body to manage public sector involvement in staging the Games: the ODA. No existing body has sufficiently wide or Olympic-specific powers, and a new body, focussed solely on the Olympics, would be better placed to deliver the Games as promised in London's Candidature File on time and within budget.

- 2.6 The Government and bid stakeholders have made public commitments to the IOC to establish the ODA in primary legislation. Therefore, where this RIA sets out options about setting up the ODA these are included for information only.
- 2.7 The legislation will grant the ODA a range of powers which will vary in their scope, both in terms of time and geography. These powers have been designed to allow the ODA to fulfil its purpose of delivering public sector obligations for the Games. Some of these powers will focus on the preparations required in the years leading up to 2012, particularly ensuring that the necessary venues and infrastructure are in place, while others will be specific to the Games period.
- 2.8 In order to deliver the necessary venues and infrastructure, it is proposed that the ODA will have development control powers in the Olympic Park and powers in order to allow it to acquire the necessary land for Olympic venues and facilities in London and the rest of England. The ODA will also have powers in relation to transport, both in the lead up to the Games – to ensure proper plans and arrangements are put in place – and during the Games, to ensure Olympic transport can be delivered. During the Games period, the ODA will have powers to regulate advertising and street trading in the vicinity of Olympic venues¹.

Risks being addressed

- 2.9 Creating the ODA and giving it the necessary powers to deliver public sector obligations for the Games will address the following risks:
- 2.9.1 **That the project is not delivered on time or within budget** because there is no single-purpose public body which is focussed on delivering the Games and with the necessary powers to do so. Lessons learned from previous Olympic Games show that a single body co-ordinating public sector interests and responsibilities in delivering the Games is more effective than a range of bodies working in concert. Sydney's Olympic Co-ordination Authority, the equivalent of our ODA, is held up by the IOC and others as a good example of the importance of a single-purpose public body to delivering a successful Olympic Games.
- 2.9.2 **That the Government and / or Mayor are unable to deliver the commitments made as part of the bidding process** in the Candidature File and associated guarantees. These commitments were made legally binding upon signature of the Host City Contract and thus the IOC would be entitled to seek legal action if they were not delivered.

Options

- 2.10 We have considered the following options relating to the kind of body which should deliver the Games and the powers it should have. The benefits and risks associated with each option are set out below:

¹ These powers are explored further in the section about marketing

The kind of body which delivers public sector obligations for the Games

2.11 *These options are included for information only – the Government has already given a public commitment to the IOC that it will legislate to create an ODA.*

2.11.1 Option a: do nothing

2.11.2 The first option is to do nothing and go ahead and stage the 2012 Olympics, using existing bodies to deliver the project. Given the proposed location of the Olympic Park, there are two main candidates: the LDA and the London Thames Gateway Urban Development Corporation (a UDC).

Benefits:

2.11.3 No expenditure incurred by setting up a new body, although there would be incremental costs for the existing body.

Risks:

- 2.11.4 Without an Olympic-specific body, there is a greater risk of failure to deliver the Games on time and within budget given that:
 - 2.11.5 competing priorities could jeopardise the project
 - 2.11.6 there are limits to the LDA's and UDC's powers (vires, geographical scope)
 - 2.11.7 no single body would have all the powers needed for the delivering the Games e.g. the LDA or UDC would be dependent on TfL for delivering Olympic transport in London
 - 2.11.8 The IOC could take legal action against the Government and other stakeholder parties for failing to deliver commitments made during the bidding process

2.12 *Option b: Create the ODA as an executive agency or private corporation i.e. without legislating. The ODA would not be able to have the range of powers as currently proposed e.g. development control*

Benefits

2.12.1 The ODA might be set up and begin work more quickly

Risks

- 2.12.2 The ODA will not have the powers it needs to fulfil its purpose e.g. development control
- 2.12.3 May well still need Parliamentary clearance for expenditure under the new service rules
- 2.12.4 Risk to the public funding package: if the ODA is an agency, the Mayor could withdraw council tax funding as the ODA will be purely a creature of Government (an agency)
- 2.12.5 There are difficulties associated with the principle of additionally, according to which Government ought not to use lottery funds to merely replace exchequer funding
- 2.12.6 The ODA may not be able to deal credibly with the full range of bodies it should

2.13 *Option c: Legislate to set up the ODA as a statutory body and grant it the powers needed to fulfil its purpose in statute*

Benefits

- 2.13.1 Mitigates the risk that the project is not delivered on time or within the budget of the £2.375bn public sector funding package by creating a single-purpose body, focussed on delivering the Games and with the necessary powers to do so
- 2.13.2 Government and other bid stakeholders are able to deliver the commitments made as part of the bidding process
- 2.13.3 Allows for involvement and engagement of a wider range of stakeholders through the Board and committee structure

Risks

- 2.13.4 Risk to budget: there will be costs incurred (see page 7, paragraph 22) in setting up a new statutory body, although these should be balanced against the fact that a single focussed body will be more effective in delivering the Games

The kind of powers the ODA should have

- 2.14 If there is to be an ODA, created by legislation, there are a range of options as to the powers which the ODA could have. These are set out for information – the Government has already made commitments to the IOC that the ODA will have development control powers in the Olympic park, powers to acquire land, and powers to control and co-ordinate and ensure the delivery of Olympic transport plans.

Development control powers:

- 2.15 *Option a: do nothing; the ODA has no development control powers. Development control powers reside with the local boroughs as now.*

Benefits

- 2.15.1 ODA admin costs are reduced

Risks

- 2.15.2 Development control process is fragmented, with each planning decision being taken by one or more of the four local planning authorities. This risks slowing down the co-ordination and delivery of planning decisions and jeopardising the overall programme.
- 2.16 *Option b: grant the ODA planning powers for the Olympic Park. The ODA will become the local planning authority for the Olympic Park. In exercising its development control powers, the ODA will have to follow normal procedures.*

Benefits

- 2.16.1 ODA Planning committee can focus on determining Olympic-related planning applications, taking those decisions within the wider context of preparation for the Games and development of the Olympic park
- 2.16.2 Provides a single point of accountability for development control decisions in relation to the Olympic Park
- 2.16.3 Allows for more effective co-ordination of the Olympic Park delivery programme

Risks

- 2.16.4 Insufficient transparency in ODA process (as usually the ODA will also be the applicant for planning permission) – can mitigate through Chinese walls and ensuring those who prepare applications play no part in determining them
- 2.16.5 Only provides for the ODA to assume development control powers for the Olympic Park. Planning decisions for other Olympic venues will remain a matter for the existing local planning authorities

Land acquisition powers:

- 2.17 *Option a: do nothing; the ODA has no land acquisition powers*

Benefits

- 2.17.1 ODA would be focussed on building the venues and infrastructure without the potential complication of acquiring and managing land
- 2.17.2 ODA admin costs are reduced

Risks

- 2.17.3 The programme could be held up if other bodies fail / refuse to acquire land needed for the Olympics
- 2.17.4 The ODA could be perceived as a relatively impotent body without basic powers such as the ability to own land

- 2.18 *Option b: grant the ODA powers to acquire land*

Benefits

- 2.18.1 The ODA is able to acquire land needed to deliver the Games

Transport powers

- 2.19 *Option a: do nothing; the ODA has no transport powers*

Benefits

- 2.19.1 Preserves status quo: existing operators and authorities carry on as normal

Risks

- 2.19.2 Olympic transport cannot be delivered effectively because no single body co-ordinating arrangements

- 2.20 *Option b: grant the ODA the power to implement an Olympic Transport Plan, which will rely on the co-operation of transport operators and authorities*

Benefits

- 2.20.1 ODA can co-ordinate Olympic transport, both in the lead up to the Games and during Games time
- 2.20.2 Existing operators and authorities are used to deliver the transport plans, ensuring continuity of service, and utilisation of existing facilities and expertise
- 2.20.3 Olympic transport prioritised through centralised organisation, but regard still given to non-Olympic travellers

Risks

- 2.20.4 That other organisations fail to co-operate with the ODA, causing a breakdown in Olympic transport plans

- 2.20.5 That highway, traffic and street authorities may find it burdensome to seek ODA approval before exercising certain functions, though we intend to mitigate this risk by applying these provisions only when required (i.e. shortly before the Games)

Security

2.21 *Option a: make no specific mention of security in ODA's remit*

Benefits

- 2.21.1 Preserves status quo, existing structures and authorities accustomed to working together

Risks

- 2.21.2 ODA doesn't build security into planning stages, reducing likelihood of successful security provision
2.21.3 Could cost more if not planned in from beginning

2.22 *Option b: specify ODA's responsibility for security*

Benefits

- 2.22.1 Builds security into planning phase of everything the ODA does
2.22.2 Could reduce cost if incorporated into early planning phase
2.22.3 Does nothing to alter or undermine police/security services overall responsibilities

Who will be affected (including business sectors)

- 2.23 Hosting the Olympics will mostly affect those living near proposed Olympic venues, particularly people living in London. Among the business sectors most likely to benefit from hosting the Games are the construction and hospitality industries. In carrying out its functions and purposes the ODA's impact will be greatest on sectors involved in the delivery of major infrastructure projects such as construction and engineering. There are some businesses in the Lower Lea Valley which are being relocated in order to develop the area for hosting the Olympics, although these relocations would happen irrespective of the Games with the proposed regeneration plans for the Thames Gateway area. The ODA's powers will be as proportionate as possible and will be subject to the usual procedures, for example the procedures which usually apply to local planning authorities. The ODA's transport function will have a direct impact on transport providers and operators in London and around outlying Olympic venues, such as Weymouth and Broxbourne: they will be required to co-operate with and implement the ODA's Olympic Transport Plan. When drawing up the Olympic Transport Plan, the ODA will be required to consult those bodies who will be affected by its implementation. The Olympic Transport Plan may result in traffic regulations that might affect road users other than the Olympic Family.

Equity and fairness

- 2.24 The proposals will not have a greater impact on particular racial, gender or income groups, nor will it have a greater impact on any particular age group

or on those with disabilities. They will not have a differential impact in rural areas.

- 2.25 However, given the concentration of Olympic venues in London, and in particular in the proposed Olympic Park area in East London, hosting the Olympic Games and associated legislation will have a proportionately higher impact on these areas. The five London boroughs surrounding the Lower Lea Valley include 3 of the 10 most deprived Local Authority areas in the whole of the UK. The area also has one of the highest concentrations of ethnic minorities in the country. Hosting the Paralympic Games in London would have a positive impact on people with disabilities, for example with increased access for disabled people to public transport and sporting facilities. It is also likely to raise the profile of possibilities for participation in sport and physical activity among people with disabilities.

Benefits and costs

- 2.26 As noted in the introduction to this RIA, we have commissioned an Olympic Games Impact Study to assess the likely impacts of hosting the Olympic Games on both London and the UK. We intend to publish a final version once the study is completed.

Benefits of Olympic legislation to create the ODA:

- 2.26.1 Supports one of Government's main objectives in the project: to secure Value for Money from the deployment of public funds, and to ensure that the ancillary work is carried out to time, budget and specification, as promised to the IOC in the London Candidate File;
- 2.26.2 Risks involved with staging the Games are mitigated - e.g. that the project is not delivered on time – through proper project management and leadership of the project;
- 2.26.3 Helps ensure that the Games are successful for the UK, both in the eyes of the IOC and the world – this will help increase our chances of hosting major events in the future; and
- 2.26.4 Creates a single point of contact for various public sector organisations involved in the delivery of the Games e.g. Government Departments, the GLA group, and for the LOCOG.

Implementation Costs

- 2.26.5 As a part of the PricewaterhouseCoopers (PwC) cost validation review undertaken to assess the full costs of the staging the Olympics - in the wake of the initial report by Arup - an initial estimate of was made for the lifetime administration costs of the ODA². This analysis utilised the administration costs of Urban Development Corporations as the nearest available comparator in terms of expected tasks,

² Based on averaged UDC administration costs from paper "Impact of Urban Development Corporations in Leeds, Bristol and Central Manchester", available from the ODPM website at http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbpol_608127.hcsp. These costs were averaged and then inflated by PwC to likely out-turn prices.

however, one of the recommendations of the PwC report was to undertake a fuller "bottom-up" analysis of costs. A full review of costs is being undertaken by KPMG.

- 2.26.6 These costs will be met from the Olympic Public Sector Funding Package of £2.375 billion, which is coming from the Olympic Lottery, the Sports Lottery Distributor, the National Lottery, the Mayor's precept on the London Council Tax, and a contribution from the LDA, as set out in "The Government response to a London Olympic Bid for 2012" (CM5867) published in June 2003.

Competition assessment

- 2.27 The legislation will create a statutory body to manage public sector involvement in the Games to be called the Olympics Delivery Authority (ODA). This, in itself, is unlikely to have an impact on competition but it is possible that future actions of the ODA will have such an impact. Hence, the competition implications of the exercise of ODA powers, such as procurement, can only be assessed when they are used. There will be a continuing competition analysis in relation to the exercise of the ODA's powers.

Small firms assessment

- 2.28 In drawing up this RIA, we have consulted with the Small Business Service (SBS). Their assessment is that there are two areas of proposals which may have some impact on small businesses: Olympic transport and land acquisition. First, the Olympic Route Network, which will need to be established on key arteries to allow Olympic traffic to move freely, may have some impact on small firms, reducing customer and delivery access during Games' time. Advance notice of the Olympic Route Network ought to mitigate its potentially negative impact on small firms. Secondly, the ODA will have powers to acquire land for the purposes of staging the Games. This may impact on some small firms, although proper arrangements will be in place to ensure that these firms receive adequate compensation. Much of the land needed for the proposed Olympic Park has been acquired by the LDA in advance of the ODA being created, so the additional impact caused by the ODA's land acquisition powers will be minimal. The ODA will have to follow normal procedures in the exercise of its land acquisition powers.

Environmental Impact Assessment

- 2.29 The environmental impact of the ODA and its powers is a subset of the environmental impact of staging the Games. An Environmental Impact Assessment has been carried out in relation to the development of the Olympic Park. As part of the planning application for the Olympic Park, a full Environmental Statement and a Non-Technical Summary were prepared in accordance with appropriate best practice and the following:
- 2.29.1 EU Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EEC;

- 2.29.2 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999; and
- 2.29.3 Circular 2/99 (dated 12th March 1999) entitled 'Environmental Impact Assessment'.

2.29.4 This is available at: <http://www2.hackney.gov.uk/jpat-docs/>

Compliance

- 2.30 The ODA will, as an executive Non-departmental public body, be accountable to Parliament and audited by the Comptroller and Auditor General. The Secretary of State will be able to direct the ODA, if necessary, to ensure that it delivers the project on time and within budget.

Sunsetting

- 2.31 Given that the objective of Olympic legislation is to allow the UK to host a successful Games in line with IOC requirements, the legislation is designed to apply in the lead up to and during the London Games. The majority of the provisions will therefore be time-limited. In order to allow some flexibility it is intended that the exact date at which provisions will cease to apply will be determined by secondary legislation, although this is expected to be at some point between 2012 and 2014. Some flexibility is required as to when these provisions will be turned off given that the ODA will be required to undertake Olympic-related activities once the Games are over, namely reconfiguring venues for post-Olympic legacy use.

b) The Mayor's and Regional Development Agencies' (RDA) Olympic powers

- 3.1 This section addresses measures in the Act to grant the Mayor of London and RDAs powers to play their role in preparing for and staging the London Games.

Purpose and intended effect

- 3.2 To clarify the Mayor's ability to fulfil the commitments entered into upon signing the Host City contract, by granting the Mayor the power to do anything for the purposes of complying with his obligations under the Host City Contract or to prepare for and manage the London Olympics. The ODA and the LOCOG will be the bodies primarily responsible for ensuring the delivery of the Games, but the Mayor will have to play his part as a key stakeholder.
- 3.3 The RDAs have also been given a specific Olympic purpose to prepare for the London Olympics. If RDAs need to carry out work specifically for the Olympics, beyond what existing regeneration powers would allow, they will be able to do so – at the request of the ODA.
- 3.4 Finally, the Act addresses some problems encountered by the LDA in the course of acquiring the land needed for the Olympic Park. Where a RDA acquires land for the Olympics, the effect of the Act is to:
- 3.4.1 Remove the need for a special Parliamentary process of compulsory purchase for 'special land' within the Olympic Park;
 - 3.4.2 Clarify that such special land can be built on for Olympic purposes, where it is acquired by an RDA;
 - 3.4.3 Allow RDAs to compulsory purchase Crown land (and subsidiary interests in it) for the Olympics; and
 - 3.4.4 Extinguish any restrictive covenants or other rights that could stand in the way of the planned development.

Background

- 3.5 The Mayor, along with central Government and the British Olympic Association (BOA), is a key stakeholder in the delivery of the 2012 Olympic and Paralympic Games, not least because of the substantial contribution to the £2.375bn public sector funding package which will come from the Olympic precept on the London council tax. Moreover, the Mayor is obliged to sign the Host City Contract on behalf of the host city. By signing the Host City Contract the Mayor has undertaken to ensure that commitments made during the bidding phase about the way the Games will be delivered and IOC requirements met.
- 3.6 RDAs, and particularly the LDA, contribute to the Olympic project and the wider regeneration it will bring. The LDA is leading the work to acquire all the necessary land for the Olympic Park in East London and RDAs elsewhere in the UK will be able to help to assemble land for other Olympic facilities. The ODA, when established, will take primary responsibility for managing and delivering the Games. But the ODA may still need assistance from the RDAs with some Olympic-specific work, for instance if more land needs to be acquired.

Risks being addressed – Mayor’s powers

3.7 This section addresses the following risks:

- 3.7.1 That the Mayor is unable to deliver the commitments made as part of the bidding process (in the Candidature File and associated guarantees as well as by signing the Host City Contract). These commitments became legally binding upon signature of the Host City Contract; and
- 3.7.2 That the Olympic project is not delivered on time and within budget because the Mayor does not have a clear Olympic remit.

Options

3.8 *Option a: do nothing - go ahead and stage the 2012 Olympics without clarifying the Mayor’s remit*

Benefits

3.8.1 No legislation required

Risks

3.8.2 That the Mayor is unable to play his role in preparing for and staging the Games as envisaged by the stakeholders and promised during the bidding process

3.9 *Option b: legislate to clarify the Mayor’s role in preparing for and staging the 2012 Games.*

Benefits

3.9.1 The Mayor’s role in relation to preparing for and staging the Games is clearly defined

Risks

3.9.2 None – Mayor’s powers to be clearly defined and time-limited to address any perceived risk of overspill

Risks being addressed – RDAs’ new purpose

3.10 This section addresses the following risks: that the Olympic project is not delivered on time because RDAs do not have a clear Olympic remit.

Options

3.11 *Option a: do nothing - go ahead and stage the 2012 Olympics without giving the RDAs a specific Olympic purpose*

Benefits

3.11.1 No legislation required

3.11.2 No risk that RDAs are distracted from other work by Olympic-specific work

Risks

- 3.11.3 That RDAs are not able to contribute to the Olympic project, for instance by acquiring land, where they are not able to act under existing regeneration powers
 - 3.11.4 That commitments given to deliver venues made in the Candidate File cannot be fulfilled
- 3.12 *Option b: legislate to clarify RDAs' powers to purchase land and prepare for the Games*

Benefits

- 3.12.1 That RDAs are able to contribute to the Olympic project, for instance by acquiring land, where they are not able to act under existing regeneration powers

Risks

- 3.12.2 None – RDA's powers to be clearly defined, time-limited and subject to ODA consent, to address any perceived risk of overspill

Risks being addressed – RDAs' land assembly powers

- 3.13 This section addresses four risks to the land assembly programme for the Olympics that could mean that land for the Games is not assembled on time or on budget.

Options

- 3.14 *Option a: Do nothing – provide no Olympic-specific powers. Rely on RDAs' existing powers, and the existing process for compulsory purchase to deliver the land needed for the Games.*

Benefits

- 3.14.1 No special case would be made for the Olympics – the usual statutory rules and procedures for a RDA-led process of land assembly would apply

Risks

- 3.14.2 The special Parliamentary procedure needed for the compulsory purchase of 'special land' within the Olympic Park (or elsewhere) could add an unacceptable delay to the start of the construction project. 'Special land' constitutes commons, open spaces and allotments. Where 'special land' is compulsorily acquired, the Acquisition of Land Act 1981 requires either that 'equally advantageous' exchange land is provided immediately or that the special Parliamentary procedure is followed.
- 3.14.3 Legal doubt as to whether 'special land', once acquired by a RDA, could be built on. The case law on the meaning of the relevant section of the Regional Development Agencies Act 1998 is not conclusive on this point.
- 3.14.4 Inability for any RDA to compulsorily purchase Crown land, or any interest in Crown land, were that to be needed at an Olympic site anywhere in the UK.

3.14.5 Threat of challenge from a third party holding a restrictive covenant or other right affecting the use of land on an Olympic site. It is known that such covenants exist at some Olympic venues.

3.15 Option b: Take legislative action to address the four key risks through Olympic-specific provisions

Benefits

3.15.1 No doubt about the legality of the land assembly programme and no possibility of unnecessary delay.

3.15.2 'Special land' could be acquired without delay and could be used for Olympic development, in line with existing planning permissions, without fear of challenge.

3.15.3 No possibility that a restrictive covenant or other right could prevent an Olympic venue or facility being built.

3.15.4 Certainty that Crown land could be compulsorily acquired for an Olympic purpose if that became necessary.

Risks

3.15.5 The usual special Parliamentary procedure will not be available to those affected where 'special land' is compulsorily acquired by a RDA for the Olympics. However, the usual right to object to a compulsory purchase order, and to appear at a public inquiry, will apply. Moreover, the LDA are committed to providing exchange land outside the Olympic Park to all those who use special land (allotment holders, footballers and cyclists). And after the Games those users will be provided with new replacement facilities at sites within the Park.

3.15.6 Third parties holding restrictive covenants or other rights over land that is to be used for Olympic venues will not be able to enforce those covenants. However they will be entitled to compensation, to be awarded by the Lands Tribunal, with a right of appeal to the High Court.

Who will be affected

3.16 Hosting the Games will mostly affect those living near proposed Olympic venues, particularly people living in London. Among the business sectors most likely to benefit from hosting the Games are the construction and hospitality industries. The Mayor's Olympic power will in particular affect council tax payers in London: an Olympic precept will be raised to form part of the public sector funding package.

Equity and fairness

3.17 This proposal will not have a greater impact on particular racial, gender or income groups, nor will it have a greater impact on any particular age group or on those with disabilities. Nor will it have a differential impact in rural areas. However, given the concentration of Olympic venues in London, and in particular in the proposed Olympic Park area in East London, hosting the Olympic Games and associated legislation will have a proportionately higher impact on these areas. The five London Boroughs in the Lower Lea Valley area include 3 of the 10 most deprived local authority areas in the whole of

the UK. The area also has one of the highest concentrations of ethnic minorities in the country. Hosting the Paralympic Games in London would have a positive impact on people with disabilities, by extending access to facilities. It is also likely to raise the profile of possibilities for participation in sport and physical activity among people with disabilities.

Benefits and costs

- 3.18 As noted in the introduction to this RIA, we have commissioned an Olympic Games Impact Study to assess the likely impacts of hosting the Olympic Games on both London and the UK. The assessment is still work in progress. We intend to publish a final version once the study is completed.

Benefits of this measure:

- 3.18.1 Enables the Mayor to meet IOC requirements, by clarifying its power to prepare for and stage the Olympic Games
- 3.18.2 Mitigates the risk that the Games are not delivered on time or within budget because the Mayor and RDAs will have a clear remit to play their part

Costs:

- 3.18.3 This measure does not involve any implementation costs. It will facilitate the raising of the Olympic precept on the council tax which will form a substantial part of the £2.375bn public sector funding package. RDA expenditure is included within this funding package.

Competition assessment and small firms assessment

- 3.19 Competition will not, of itself, be affected by granting the Mayor powers to fulfil his obligations under the Host City Contract and to prepare for, and stage, the London Olympics. However, the exercise of these powers by the Mayor and by the RDAs may affect competition in the future. It may also impact adversely on small firms.
- 3.20 Such risks will be mitigated by three factors. First, firms affected by removal of a restrictive covenant or other right will be entitled to compensation awarded by the Land Tribunal. Second, the Secretary of State can issue guidance to the ODA and third the Mayor must have regard to the desirability of consulting with the Secretary of State before exercising his powers under the Act.
- 3.21 Nevertheless, precise estimates of the markets that might be affected or the possible effects of this measure on competition cannot yet be made.

Environmental Impact Assessment

- 3.22 The environmental impact of the Mayor's and RDA's Olympic Powers is a subset of the environmental impact of staging the Games. Further details on the environmental impact assessment for the Olympic Park are listed earlier, on page 9, paragraph 27 of the section on the ODA.

Compliance

- 3.23 It is unlikely that compliance issues will arise in relation to the Mayor's or the RDA's Olympic powers.

Sunsetting, Monitoring and Review

- 3.24 The Mayor's power is specific to the delivery of the 2012 Games and is by nature time-limited. It will however be turned off by order of the Secretary of State once the Games are over. Some flexibility is required as to exactly when this order will be made, given that the Mayor is likely to have a role in post Games arrangements, primarily in ensuring the legacy use of venues and facilities.
- 3.25 Similarly the RDAs power is specific to the preparation and delivery of the Games and will be turned off by the Secretary of State after the Games.

c) Marketing measures

4.1 This section addresses measures in the Olympic Games and Paralympic Games Act to:

- Amend the Olympic Symbols etc Protection Act (OSPA);
- Create the London Olympics event association right;
- Control outdoor advertising in the vicinity of Olympic venues;
- Prohibit ticket touting in connection with the Olympic Games;
- Regulate street trading in the vicinity of Olympic venues.

Purpose and intended effect

4.2 As part of the bidding process, the IOC requires candidate cities to guarantee that they will ensure the necessary legislation and policy provisions are in place to manage the Olympic environment to IOC standards. The measures outlined above will enable us to meet the commitments given as part of London's bid about how the Games, and the Olympic environment, will be managed – particularly in relation to advertising and marketing. The objective of these measures is to provide greater protection of Olympic intellectual property than is currently the case and to prevent unauthorised marketing in connection with the Games.

Background

4.3 The measures set out above at paragraph 4.1 are designed to meet IOC requirements as set out in a range of IOC documents, primarily the Host City Contract and the technical manuals. These requirements are prescriptive. Measures in the Act are designed to meet these requirements in as proportionate a way as possible.

4.4 Maximising the revenue brought in by the Olympic Games is one of the IOC's highest priorities. In order to protect the revenue generated by Olympic partnerships, the IOC seeks to control the market in and around the Host city for the duration of the Games. To this end, the IOC requires that Candidate Cities undertake to protect Olympic marks and imagery, prevent ambush marketing, and maintain clean (i.e. advertising-free) venues. These requirements are set out in the IOC's Technical Manual on Brand Protection. When chosen to host the Games, cities must once again undertake (contractually) to comply with the Host City Contract and all accompanying manuals.

4.5 The IOC makes these requirements not only because of the importance of sponsorship to the future of the Olympic movement, but also to restrict market clutter, prevent the over-commercialisation of the Games, prevent inappropriate marketing and to protect the high standards associated with the ideal of Olympism.

4.6 While the IOC seeks to control the market in the Host City for the duration of the Games, it is also used to working with countries with rigorous competition laws. The 2002 Winter Olympics were, for instance, held in Salt Lake City, and the Salt Lake Organizing Committee successfully accommodated the IOC's requirements on brand protection and ambush marketing.

- 4.7 The requirements which the IOC place on host cities are such that legislation is required to enable us to fulfil them. The IOC requires that host cities give greater protection to Olympic intellectual property than we currently provide and that they reduce and prevent unauthorised marketing in connection with the Games. Host cities must also undertake to prohibit ticket touting in connection with the Games and to regulate street trading in the vicinity of Olympic venues. These requirements are set out in the IOC's Host City Contract and the various technical manuals. Cities must undertake to abide by the obligations set out in these documents as part of the bidding process and again upon election as Host City. It is our intention that the Act strikes an appropriate balance between IOC requirements and existing Government policy as far as possible.
- 4.8 We will carry out a further RIA before making the secondary legislation provided for in the Act in relation to marketing measures.

Risks being addressed

- 4.9 The main risk which these measures are designed to address is that the Government and / or Mayor are unable to deliver the commitments made as part of the bidding process (in the Candidature File and associated guarantees as well as by signing the Host City Contract). These commitments were made legally binding upon signature of the Host City Contract and thus the IOC would be entitled to seek legal action if they were not delivered. There is also a risk that, without measures to regulate advertising and street trading and eliminate ticket touting, the "look" and overall success of the London Games would be undermined.
- 4.10 The UK has not hosted an Olympic Games since 1948, so it is difficult to calculate the extent of unauthorised advertising that might occur during a London Games. However, the experience of previous host cities is that non-sponsors make sustained and creative attempts to benefit commercially from the Games. The measures in this Act are designed to counter such attempts.
- 4.11 Ticket-touting is a problem which affects most major events and there have been some attempts to quantify the level of ticket touting in the UK. For example, the Metropolitan Police have conducted an ongoing exercise at Arsenal football matches. Ticket touting is a routine occurrence at Arsenal matches: the average match will have 10-15 touts operating, with up to 20 at big games. At the Arsenal vs Manchester United fixture on 1 February 2005, the Met police deployed 14 officers specifically targeting ticket touts. Touts were asking £200 per ticket. The operation made 10 arrests. We could expect similar, if not greater, problems with ticket touting at the Olympic Games.

Options

- 4.12 The decision to bid to host the 2012 Games brought with it a series of IOC requirements which candidate and host cities must undertake to meet. The options are therefore set out for background information.
- 4.13 *Option a: do nothing – go ahead and host the 2012 Olympic Games with existing legislative measures in place*

Benefits

- 4.13.1 Preserves status quo: no need for additional regulation
- 4.13.2 Free market for companies and individuals to derive commercial benefit from Olympic Games
- 4.13.3 Less expenditure incurred in setting up new statutory body (ODA)

Risks

- 4.13.4 That the IOC could take legal action against the Government and other stakeholder parties for failing to deliver commitments made in the bidding process and contained in the Host City Contract, or withhold money from the LOCOG
- 4.13.5 That unregulated advertising and street trading, and ticket touting would undermine the overall success of the Games.

4.14 Option b: Attempt to meet IOC requirements through non-legislative routes:

- 4.14.1 Instead of legislating to prevent unauthorised marketing in connection with the Games, conduct a programme of information and education setting out why Olympic sponsorship is so important and the negative effect which unauthorised marketing can have on the Games.

Benefits

- 4.14.2 No need for additional regulation

Risks

- 4.14.3 That the IOC take legal action against the Government or other stakeholder parties for failing to deliver commitments made in the bidding process, or withhold money from the LOCOG
- 4.14.4 That unauthorised marketing is prevalent during the Games as information and education programmes are unlikely to be effective without legislative back-up given that the Games provides some very lucrative marketing opportunities – this could lead to a fall in LOCOG sponsorship revenue and thus increase the burden on the public purse

4.15 Option c: legislate to meet IOC requirements – with a complementary programme of information and education

Benefits

- 4.15.1 Government and other bid stakeholders able to deliver the commitments made as part of the bidding process (in the Candidature File and associated guarantees as well as by signing the Host City Contract).
- 4.15.2 Paralympic intellectual property on equal footing with Olympic Intellectual Property
- 4.15.3 Can provide clarity about Customs and Trading Standards Officers' powers to seize goods infringing the Olympic IP rights

Risks

- 4.15.4 Inhibits competition
- 4.15.5 Excessive penalties / enforcement

Possible unintended consequences

- 4.16 Companies and individuals may not comply with the regulations (may act illegally) where the penalty for doing so is lower than the potential commercial gain, or where enforcement is weak. This could be addressed by raising penalties so that the commercial gain is not higher than the penalties.
- 4.17 Loopholes – people may find a way of legally avoiding the restrictions. For example advertisers may become even more imaginative in the marketing strategies which they develop in order to derive commercial benefit from the Games. By maintaining some flexibility in legislative provisions, we think we will be able to adapt to marketing strategies as they evolve.
- 4.18 Traders prevented from trading in the vicinity of Olympic venues may trade elsewhere without licences and therefore illegally – to redress this we will give good notice of restrictions on street trading so that traders can apply for new licences.

Who will be affected

- 4.19 In terms of the Act's provisions, the marketing measures will have greatest impact on the advertising sector and the major competitors of companies who are TOP (The Olympic Programme) sponsors of the Games. There are currently a full set of TOP sponsors, some of whom have already negotiated sponsorship deals which will last until the 2012 Games. LOCOG sponsors will be selected in the lead up to the Games.

Equity and fairness

- 4.20 The proposals will not have a greater impact on particular racial, gender or income groups, nor will it have a greater impact on any particular age group or on those with disabilities. Nor will they have a differential impact in rural areas. However, given the concentration of Olympic venues in London, and in particular in the proposed Olympic Park area in East London, hosting the Olympic Games and associated legislation will have a proportionately higher impact on these areas. The five London boroughs in the Lower Lea Valley include 3 of the 10 most deprived local authority areas in the whole of the UK. The area also has one of the highest concentrations of ethnic minorities in the country. Hosting the Paralympic Games in London would have a positive impact on people with disabilities. It is also likely to raise the profile of possibilities for participation in sport and physical activity among people with disabilities.

Benefits and costs

- 4.21 As noted in the introduction to this RIA, we have commissioned an Olympic Games Impact Study to assess the likely impacts of hosting the Olympic Games on both London and the wider UK economy. We intend to publish a final version once the study is completed.

Benefits of marketing measures in the Olympic Games and Paralympic Games Act:

- 4.21.1 Enables Government, the Mayor and other stakeholders to meet IOC requirements as promised to the IOC in London's Candidate File and the Host City Contract;
- 4.21.2 Helps ensure that the Games are successful for the UK, both in the eyes of the IOC and the world;
- 4.21.3 LOCOG sponsorship funding is maintained;
- 4.21.4 Puts protection of Paralympic Intellectual Property on par with Olympic intellectual property.

Costs

- 4.21.5 The proposed amendments to OSPA will not create additional costs. The measures relating to controlling outdoor advertising and street trading will involve some additional costs to the ODA, over and above the admin costs referred to in section (a) of this RIA. However, these costs should be mitigated by the co-operation of LOCOG and the work of its Brand Protection task force. The LOCOG has been established as a self-financing private company.
- 4.21.6 Given that these measures are designed to reduce unauthorised marketing in connection with the Games, the result will be that some businesses are not able to make as much money from the association with the Games as compared to other major events which are not so protected. It is not possible to quantify the costs of these restrictions to businesses.

Competition assessment

- 4.22 The Act's provisions most likely to have a competition impact relate to marketing in connection with the Games.
- 4.23 As discussed, the Government has certain obligations to the IOC under the Host City Contract to control advertising and street trading around Olympic venues and to restrict associations being made with the Games.
- 4.24 The Olympics sponsorship system is based on the creation of exclusive rights to be associated with the Olympics³ and advertise close to venues. The London Olympic Games and Paralympic Games Act provides for ambush marketing restrictions to prevent exploitation by non-sponsors in order to maintain the rents for the benefit of the London, and future, Olympic Games.
- 4.25 The legislation provides for LOCOG to hold and authorise rights of association within the UK. On the one hand, those authorised to use the rights will compete with others for finance and customers. Hence, the creation and distribution of authorisations tends to stimulate overall demand for UK resources, from which wage earners and owners of productive assets are likely to benefit. On the other, if these authorisations are distributed in a non-competitive way or if the rights are enforced onerously, then monopoly

³ The Olympic Symbol etc. (Protection) Act 1995 already protects the Olympic insignia and associated indicia. It is amended by this legislation.

power may be enhanced and competition reduced with the result that consumers may eventually suffer.

- 4.26 How, in practice, the rights are defined and enforced, and authorisations distributed will determine which of these two possibilities is most likely to occur. If the authorisations are defined as narrowly as possible, distributed in an openly competitive environment and the rights enforced with a minimal effect on existing and potential markets, then overall competition is more likely to be enhanced than disrupted. However, failure to meet any of these conditions may lead to the opposite result. Whether or not the legislation leads generally to more or less competition can only be decided by studying its effects as it is implemented. Hence, this is a preliminary assessment of the likely effects that the legislation may have on competition.
- 4.27 The legislation has three interventions which might affect advertising and consumer markets. They are: regulation of open air advertising; regulation of street trading; and restrictions to combat ambush marketing. As discussed above, all are required as part of our obligations to the IOC under the Host City Contract. The legislation is intimately connected to the financing of the Games through sponsorship and television rights.⁴ However, all have potential impacts on competition (however minor) and are analysed separately.

Advertising Regulations

- 4.28 The Secretary of State is given the power to make regulations to determine the location, nature and definition of advertising in the vicinity of London Olympics venues. This power to regulate covers open-air sites but may also include the distribution of promotional material or the projection of images. This measure is required as part of the "clean sites" requirement of the Host City Contract.⁵ Only by insisting on this can the IOC and LOCOG assure their commercial sponsors unrivalled access to the Olympic Games audience and so secure the maximum sponsorship revenue for the Games.
- 4.29 But this enhanced revenue may come at a cost to consumers. Regulations on those who can advertise at Olympics venues during the Games will prevent non-sponsoring companies from advertising in certain ways and could divert advertising to other local media. Unfortunately, the size of markets likely to be affected is not known.
- 4.30 It is far too early to accurately estimate the likelihood of this effect on competition but this will be limited. Already LOCOG has secured options on almost all of the open-air advertising space likely to be affected by the regulations. The regulations will apply to tightly-defined markets in severely limited areas for very limited times and so any influence on competition they may have is likely to be neither substantial nor permanent.

⁴ The costs of the Games (apart from those met by Government) are predominantly met from television rights and sponsorship rather than ticket sales. For example, LOC expects to raise a third of its £2 billion from sponsorship but to sell only £400 million of tickets.

⁵ One of the publicly announced reasons given why New Zealand failed in its bid to be joint host of the 2003 Rugby World Cup was that a guarantee could not be given that New Zealand stadia and their surroundings would be rendered clear of existing advertising and sponsorship obligations for the duration of the World Cup.

- 4.31 The advertising industry and those likely to be affected by these regulations will be consulted prior to the regulations being made. This should help to further minimise the impact on competition.
- 4.32 Much depends on how the regulations are drafted, employed and enforced. We will assess the effects on competition when the regulations are made.

Street Trading Regulations

- 4.33 The Act gives the Secretary of State power to make regulations about street trading in the vicinity of Olympic venues during the Games period. These regulations will prevent those who do not have an authorisation from the ODA from street trading close to Olympic venues during the Games period. In this way, companies will be prevented from trading close to Olympic venues without having first been authorised to do so. The regulations will not affect existing shopkeepers.
- 4.34 Such a regulation has the theoretical potential to adversely affect price competition in the area immediately surrounding the Games venues, with the result that attendees at the Games could pay more for lower quality goods and services than would otherwise be the case.
- 4.35 However, an analysis of street markets in London shows that only one current street market, in Greenwich, could be affected by these regulations. Furthermore, street trading licences must be renewed every three years, therefore licences could clearly state limits on trading during the Olympics period.
- 4.36 As a consequence of these strict spatial and temporal restrictions, a permanent impact on competition in the affected markets is very unlikely, even if the loss of competition may be temporarily significant. Future publication of the relevant regulations will be accompanied by more precise estimates of the likely effects.

Ambush Marketing

- 4.37 The Act creates a new intellectual property right - the London Olympics association right. LOCOG will authorise use of the right in return for sponsorship either as money or Value in Kind (VIK).⁶ Existing legislation does not provide sufficient protection to LOCOG. Without the new right, non-sponsoring (i.e. non-contributing) companies could insinuate themselves in the public mind as associated with the Olympics. This free-riding would discourage potential sponsors and so undermine the ability of LOCOG to achieve its sponsorship revenue targets, possibly placing a call on public funds.
- 4.38 Similar legislation was enacted in New South Wales at the time of the 2000 Olympics and in Italy for the 2006 Winter Olympics.⁷ Many international

⁶ Three tiers of sponsorship are currently envisaged by LOCOG.

⁷ Sydney 2000 Games (Indicia and Images) Protection Act, Measures for the protection of the Olympic symbol in relation to the organisation of the Olympic Winter Games "Torino 2006".

organisations seek to enforce a property right of association.⁸ It allows organisers to actively prevent non-sponsoring firms from using an association with the Olympics in their marketing. For the London Olympics, this right would last from the date of Royal Assent to 31 December 2012 and would apply throughout the UK.

- 4.39 The provision prevents people from making a commercial or contractual association with the London Olympics, unless authorised by LOCOG to do so. The effect is to prevent some forms of marketing unless by an authorised firm. While being an authorised company does not guarantee a successful advertising campaign to the sponsor,⁹ it may help such a campaign to succeed, and that in turn may prompt rival firms to create unauthorised forms of association that may be confusing for consumers.
- 4.40 However ambush marketing restrictions will only affect firms in determining the content of their advertising. Firms will still be able to determine their prices, products and distribution channels. The legislation does nothing to prevent firms from advertising their goods in accordance with honest practices, or from truthfully describing their goods or services. The restrictions only prevent firms from creating a commercial or contractual association with the Games, unless they are an official sponsor. Competition should not be unduly restricted, as firms can continue to advertise their goods or services.
- 4.41 LOCOG have undertaken to take a fair and proportionate approach to protecting the association right. Government will continue to work with LOCOG to ensure that this is the case.

Small firms assessment

- 4.42 In drawing up this RIA, we have consulted with the SBS. Their assessment is that the marketing provisions could have an impact on small firms. But where restrictions are being placed on ambush marketing the impact of the controls will be limited by the provisions allowing firms to use whatever words or phrases they wish where no association is created with the Games or where a statement is made in accordance with honest practices in industrial or commercial matters.
- 4.43 The Government continues to set a high priority on ensuring that small firms are able to take advantage of the opportunities the Games present. The impact of the controls on existing street-traders etc. will be addressed in the RIAs that will be prepared in connection with the secondary legislation provided for in this Act.

⁸ FIFA asserts with frequent litigation the right of association it grants to the sponsors of the FIFA World Cup. In 2003, the property rights surrounding the Cricket World Cup in South Africa were protected by amendments to the Trade Practices Act 1976 and the Merchandise Marks Act 1941.

⁹ In 2000, Qantas showed a greater ability to convince the Australian public that it was a sponsor of the Sydney Games than the true airline sponsor, Ansett. See Jeremy Curthroys and Christopher N. Kendall (2001): "Ambush Marketing and the Sydney 2000 Games (Indica and Images) Protection Act: A Retrospective", *Murdoch University Electronic Journal of Law*, Vol 8, Number 2, June 2001.

Environmental impact assessment

- 4.44 Measures to control advertising and marketing will have a positive impact on the environment in the vicinity of the Games. These provisions are designed to create a consistent 'look' of the Games.

Compliance

- 4.45 Measures in relation to venue advertising will be policed by the ODA in England and Wales, the statutory body which will have powers to remove or conceal any unauthorised displays. In Scotland it is proposed that the police will enforce outdoor advertising restrictions. It is intended that unauthorised street vending and ticket touting will be enforced by the local boroughs and the police respectively.

Sunseting

- 4.46 Given that the objective of Olympic legislation is to allow the UK to host a successful Games in line with IOC requirements, the legislation is designed to apply in the lead up to and during the London Games, and soon after to make legacy preparations. The majority of the provisions will therefore either be turned off by order soon after the Games are over (most likely between 2012 and 2014), or will cease to apply once the Games are over. The one area in which legislation is intended to remain in force after 2012 are the amendments to OSPA which provide for (a) the protection of Paralympic symbols; and (b) clearer exemptions.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'Richard Caborn', followed by a period.

Richard Caborn
Minister for Sport